

*Circular (4) letter
should be letter.*

DR. S. W. FRANCIS.

A
CIRCULAR LETTER
TO THE
PRACTITIONERS
OF
PHYSIC AND SURGERY
IN THE
State of New-York,
FROM THE
PRACTITIONERS OF PHYSIC AND SURGERY
IN THE
COUNTY AND CITY OF NEW-YORK;
WITH A
MEMORIAL

INTENDED TO BE SUBMITTED TO THE LEGISLATURE OF THE STATE
OF NEW-YORK AT THE NEXT SESSION.



NEW-YORK :

PRINTED BY JAMES SMITH,
217 Water-street.

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1829.

AT A MEETING of Practitioners of Physic and Surgery, held on Thursday Evening, 22d October, at the Masonic Hall, VALENTINE MOTT, M. D., was called to the chair, and ALEXANDER F. VACHÉ, M. D., appointed Secretary.

The Chairman stated the objects of the Meeting to be, the protection of the reputation of a number of Physicians and Surgeons who have been denounced by a late publication of the Medical Society; to consider the existing Law of the state, and to use all proper endeavours for the abrogation of such parts of it as are repugnant to the honour and dignity of the profession; and to adopt such means as may be deemed most advisable to establish a more efficient system of Medical Education throughout the state of New-York.

A committee of three was then appointed to prepare resolutions, expressing the sense and feeling of the Meeting. After retiring, the Committee presented the following preamble and resolutions, which were unanimously adopted:

Whereas, a publication has lately appeared in the newspapers of this city, inserted by the Medical Society of the County of New-York, denouncing those gentlemen whose names are thereto affixed, for not complying with the existing regulations imposed upon Physicians and Surgeons, under the name and character of the law of the state; and, whereas, such publication tends also to injure the professional character of many whose names have been altogether omitted; therefore,

Resolved, That we deem it an act of justice to declare, that such publication, in regard to many of the gentlemen proscribed, is an unwarrantable outrage upon their rights; and, to express our confidence in the professional qualifications of many of them, who possess credentials equal to any, and superior to many, of those who have complied with the regulations of said Society.

Resolved, That we consider that all associations for the diffusion of science should be composed of men voluntarily convened; that the establishment of medical societies by legal coercion, accompanied with pains and penalties, is incompatible with the acknowledged freedom of American citizens, and dishonourable to the liberal profession of Medicine.

Resolved, That we deem it expedient, that a State Association should be instituted for the improvement of Medical Science.

Resolved, That the present system of Medical Education in this state, is fraught with every evil calculated to retard the progress of science; check the aspiring talent of the country; create jealousies, by establishing misjudged monopolies; contract professional exertion; and be eminently destructive to the best interest of the public; therefore, calling loudly for *Reform*.

Resolved, That a Committee be appointed by the Chairman, to take into consideration the best means of advancing the objects of this meeting. Whereupon, the following gentlemen were appointed:

SAMUEL L. MITCHILL, M. D.

FELIX PASCALIS, M. D.

JOHN NEILSON, Sen'r, M. D.

SAMUEL OSBORNE, M. D.

HUGH M'LEAN, M. D.

JAMES PENDLETON, M. D.

WILLIAM ANDERSON, M. D.

D. M. REESE, M. D.

J. H. BAILEY, M. M.

L. PROUDFOOT, M. D.

WM. J. MACNEVEN, M. D.

ALEX'R F. VACHÉ, M. D.

On motion—

Resolved, That the Chairman be added to the Committee.

Resolved, That the proceedings of this Meeting be signed by the Chairman and Secretary, and published, with the names of all concurring with the above resolutions.

Resolved, That this Meeting adjourn, subject to the call of the standing Committee.

VALENTINE MOTT, *Chairman*.

ALEX'R F. VACHÉ, *Sec'ry*.

AT A MEETING of Practitioners of Physic and Surgery of the County of New-York, convened on Wednesday Evening, November 11th, at the Masonic Hall, pursuant to the call of the standing Committee—VALENTINE MOTT, M.D., in the chair, and ALEX'R F. VACHÉ, M.D., Sec'ry. The minutes of the last meeting were read and approved.

The Chairman of the standing Committee then presented the report on the several duties assigned by the former general meeting, which upon being read, it was unanimously

Resolved, That the Report of the standing Committee, viz. a Memorial to the Legislature, and a Circular Address to the Practitioners of Physic and Surgery in the State of New-York, be accepted by this meeting.

Resolved, That the documents accepted, with the proceedings of the former meeting, be published.

On motion—

Resolved, That a Committee, consisting of three, be appointed by the Chairman, to direct all publication of proceedings; manage addresses to the Legislature and others; regulate disbursements; and appoint a suitable delegation to the Legislature.—Whereupon, the following gentlemen were appointed:

SAM'L L. MITCHILL, M. D.

SAM'L OSBORNE, M. D.

JOHN NEILSON, Sen'r., M. D.

On motion—

Resolved, That said Committee are empowered to obtain, by subscription, the necessary funds to further its objects.

Resolved, That this Meeting adjourn *sine die*.

VALENTINE MOTT, *Chairman*.

ALEX'R F. VACHE, *Sec'ry*.

CIRCULAR

*To the Practitioners of Physic and Surgery in the State
of New-York.*

THE foregoing Resolutions having been passed unanimously, signed, and ordered to be printed, the undersigned were appointed a Committee to further the objects of the Meeting. And as the subjects embraced in these Resolutions are of paramount importance to the Members of the Medical Profession throughout the state, it becomes our duty, in conformity with our appointment, to communicate with our brethren generally, which, for greater convenience, we do by this Circular Letter. We shall, therefore, present our views, and those of the meeting, on the several topics committed to us, as briefly as is consistent with perspicuity, and respectfully solicit an expression of sentiment, by affixing your signature to the accompanying Memorial.

It is doubtless known to you, that the late law of this state, "regulating the Practice of Physic and Surgery," has totally changed the character of Medical Societies in the estimation of the profession and the public. Instead of being institutions purely literary, and extending the privilege of membership to all, who, actuated by a love of Science, and a laudable zeal for the cultivation of our liberal profession, *voluntarily* tender the credentials which entitle them to the claims of brotherhood; Medical Societies are now held up *pro terrore*; their members convened by *legal coercion*; their funds collected by *direct taxation* upon noviciates; their officers employed as *spies and informers* upon the members, and these upon each other; their meetings called to issue writs upon their brethren in the profession, educated, respectable, useful, and aged as many of them are; while these writs are accompanied with

threats of the "District Attorney," "fines," "imprisonment," and the whole apparatus of *courts of law*, to all those who neglect or refuse to "apply for and receive" a "certificate of membership" while at the same time the by-laws of said Society, in this County, require the payment of ten Dollars as an initiating fee.

It may also be known to you, that the funds of the County Societies are provided for by the previous law, not only as regards the manner of raising them, but also their appropriation. Whatever may be the case with your County Society, that of the City and County of New-York have never complied with the statute. They have never levied the annual contribution, authorized by the State Society, nor have the funds collected ever been appropriated to the promotion of Science, as required by the statute. Their Meetings have been the scenes of riot, tumultuous discord, and personal, as well as party altercation, and they who have entered these meetings personal and professional friends, have often separated implacable enemies. These obvious perversions of the design and utility of the Society, have long since driven from its meetings most of the elder and distinguished members, and caused them to separate from it for ever. This has placed the concerns of the Society in other and different hands, and the late law has fallen upon evil times in its history. The character of the Society, for many years, having been of a most unattractive kind, very many highly respectable practitioners have always stood aloof from it, and others equally respectable in their profession, coming from other states and countries, have taken the advice of their Medical friends, and declined becoming members.

An attempt is now made, in conformity with the late law, to *compel* all these to join, and the President has issued his Circular throughout the city. This attempt has been resolutely resisted by the gentlemen concerned. Some have submitted their credentials and been elected members, but resist the by-law requiring the payment of ten dollars, and are refused the

certificate of membership; while others having been legal practitioners under the previous law, refuse altogether to become members by compulsion, deeming the law to be *ex post facto* as regards them, and abstractly unconstitutional.

This refusal has been followed by a publication of the Medical Society, in which they give a catalogue of their old and present members, who, they say, have complied with the law; and append a list of those who have not complied with the law, in which their names are severally announced as illegal practitioners. While those gentlemen, who have been recently elected members, but have refused to buy the certificate, by the payment of ten dollars, are not honoured with being mentioned in either list, and the public are left to the conclusion, that all these are likewise illegal practitioners.

This publication has resulted in the meeting of the profession, by whose appointment we now address you, and believing that the dignity of our hitherto honoured profession, is endangered by this odious law, and the rights of American citizenship invaded by any attempt to enforce its provisions; we invite your participation in a respectful memorial to the legislature of the state, praying the repeal of the act, not doubting, but the intelligence and liberality of that honourable body, will listen to the voice of the profession when calmly and fully expressed.

The objections which we make to the law, are referred to in a summary way in the memorial; but it may be proper to mention in this communication, the following:

1st. The clause authorizing every County Society to compel all the "practitioners" to become members, on pain of "forfeiting their licence." Its absurdity consists in its compelling the Society to receive every empiric who applies, if a "practitioner," while, at the same time, it imposes a "forfeiture of licence" in case of refusal, however exalted the individual, in point of character or education, or however sustained by the chartered honours of European or American Universities. Besides, he could not "forfeit" that which he

never possessed, and if possessed, it is among those vested rights, which cannot be violated by any act of the legislature, either of the state or general government. He who was a legal practitioner, before the passage of this Act, is hereby not only disfranchised, but is deemed "guilty of a misdemeanor," "punishable by fine and imprisonment," unless he apply for, and receive the certificate of membership, and he is moreover prohibited from receiving, by law, any debt arising from his practice.

2d. On charges of "gross ignorance, misconduct in his profession, &c." being brought against a member before the County Society, instead of said Society being the sole judges of the extent of the misdemeanor or mal-practice, the prescribed process, by a public notice in the newspapers, and next through the District Attorney and County Judges, by whom he is to be expelled, or suspended; we deem alike dishonourable to the profession, and disgraceful to the state.

3d. A student having studied three years, and attended three courses of lectures, cannot be licenced by the County Society, unless those lectures were delivered in an *incorporated* college; while a bare licence from any county of any other state of the Union, will authorize to practice in this state, whether the party has ever heard a lecture, or seen a college. And while many such are enjoying the rights of the professions, by such authority, who cannot write, or even read a prescription; no member of the profession, in the cities or counties, can teach in any department, with any hope of emolument, while the incorporated colleges have this monopoly. Every member of the profession is, therefore, in effect, prohibited from becoming a teacher, however capable, or however emulous of rising in his profession, lest his honours or emoluments should lessen those of the *incorporated* professors.

While we disclaim any connexion with either of the parties, which the two Medical Colleges in this city have rallied around them, and whose quarrels have kept the County So-

ciety in a tumult, and resulted in the odious law against which we now remonstrate, yet as individual members of the Medical profession, we deem it our duty to act respectfully, yet firmly, in resisting the law, and praying its repeal.

We are not willing that the licence of County Societies, in other states, should confer *superior privileges*, to the same authority from the County Societies of our own state.

We object to the *compulsory* character of the law, requiring physicians to become members of the County Society where they reside, and then to pay an initiating fee, not recognized by the statute, and the amount of which may be arbitrarily increased by the by-laws, without limitation, according to the wants or necessities of its members.

We protest against the threat held out in the law, of a criminal prosecution in case of its being resisted, and conceive such provision alike uncalled for, and disreputable to the character of our liberal profession.

We conceive the protection afforded by the courts of law, is unnecessary among the members of literary and scientific societies; and that for the correction of abuses of any kind, (mal-practice not excepted,) the grave decision of a deliberative convention of their members, is fully adequate to apply a prompt and efficient remedy. And the suspension of a practitioner, or the expulsion of an empiric, by his fellow members of the Medical Society, is not only more professional, but would be submitted to by the delinquent, and sustained by the public, more cheerfully than when effected by a process at law. The latter course would excite public sympathy in favour of the sufferer, though an impostor, to an extent which would defeat the ends of law and justice, while his fellow practitioners could otherwise, soon frown him into obscurity by neglect.

We object to every attempt to protect the literary institutions of the state, by suppressing competition and prohibiting rivalry.

If there be literary institutions endowed by the state, which

after all, cannot be sustained but by vesting them with exclusive rights, and protecting them by discriminating duties, we are unwilling tamely to succumb to such monopoly, nor to uphold such an aristocracy, at the expense of our individual rights as citizens and as physicians.

We include among our unalienable rights, the liberty to teach as well as practise, all the branches of that profession, which we have made the choice of our youth, and to which many of us have devoted the greater portion of our lives. And we cannot consent that we, or our professional brethren, shall be proscribed from entering the field of competition for literary distinction and professional honours, whenever our inclination shall so direct us. Nor can we believe that the legislature of the state, or the free people of New-York, will withhold their assent from such rights as we claim, or sustain any chartered institution, which by reason of imbecility cannot endure, or by becoming superannuated, cannot survive such fair and equitable extension of equal privileges.

The ruling spirit of our age, and ~~among~~ its most honourable characteristics, is to emancipate talent, enterprise and industry, from corporate restrictions; to leave mind free to exercise its energies, and the public unrestrained from encouraging what it approves. There is no country to which such entire freedom would be more profitable than to our own, for there is none that possesses a greater fund of talent, and of this our Physicians have their fair proportion. And throughout our state, there exist the powers of mind, and much of the preliminary knowledge, which would make accomplished professors, as they make able practitioners, if free scope and encouragement were allowed to their full exercise.

We contend, therefore, for freedom in teaching and learning, and maintain that the student should suffer no penalty for placing himself under the most able teachers, though they ~~were~~ in this state, and not incorporated. We do not deem it of so much importance, where he paid his fees, as

where he was best instructed, and of this, an impartial examination is the only conclusive criterion. We know that law is studied in this state, in a way calculated to make eminent ~~counsellors~~, and yet there is no incorporated college of law, where, willing or not, the student must have paid for lectures. They freely choose their instructors, and for admission to the bar they apply to the Judges, as to an exalted and impartial tribunal, before which, all who apply, stand on equal footing. ~~And~~ we are free to avow, that it is our object to have admission to the Medical profession, placed upon a similar basis of impartiality.

Lawy

In other countries, the votary of Physic may study where he pleases, and receive his diploma where he likes, without civil detriment or civil advantage, and of course, the most renowned seat of science is generally preferred; his diploma, with his title of M. D., being a literary honour and no more. When he proposes to practise, he undergoes an examination to entitle him to the civil privilege of a licence. We know this is the case in London, Edinburgh, Dublin, Paris, throughout Germany, nay, in every country in the civilized world, and almost in every state in this union, except that of New-York; and such was the case in our own state a few years since, and until it was found necessary, by an act of favouritism, to prop the state schools by an incorporated monopoly. It is now so in New-Jersey, and it is so in Maryland, even with regard to the graduates of its own University.

“The admirable free constitution of the German Universities, (we quote from the third No. of the N. Amer. Review,) renders it the more easy to appear there in the capacity of public instructor. The care of the several branches of science is not there exclusively entrusted to any one. The regular professor is liable to find competitors in his business of instruction, in any whose predilections or whose wants may lead them to engage in the same department. The few establishments where the system of restraint prevails, have had little or no share in the prosperity, vigorous industry,

and sound and impartial learning, for which the German High Schools are distinguished.

The emoluments of the professor depend on his industry and success, and are as limited as his talents and reputation. Besides this, any man who feels competent to give instruction, and can give evidence of his competency by an examination, a public disputation, and a printed dissertation, that may serve as a specimen of his erudition, is allowed to give public or private instruction *under the sanction of the University*, with every facility to be derived from the fixtures, and with all the advantage that arises from being fairly in the list of equal competition."

Now mark the difference between our institutions and theirs. With us, all instruction in the universities is monopolized, whether the professorship derives its income from fees paid by the students, or endowments, the whole care of each branch of knowledge is entirely in the hands of the person appointed; he has no competitor. The German mode has the effect of making the public teachers industrious and faithful, for otherwise they would be soon out of employment. Now and then, it is true, a man who remains behind the age, or has little talent as a teacher, is doomed to see his lecture-room vacant, and offers instruction which no one cares to receive; and so it ought to be.

It is about twenty years since the University of Berlin was founded, and last summer its number of students was the largest on the continent. A year is not completed since the foundation of a University was laid at Munich, and already its success is assured. But how were these foundations laid? By collecting together learned men, and opening to them a career of utility, and honour, and emolument. *Honos et præmia*. Where these are dispensed freely, learning will thrive; free competition will meet public favour. Industry unchecked in its exertion, and unlimited in its rewards, will in this, as in every thing else, lead to brilliant results.

The ostensible justification of a thing so strange, as the

monopoly of which we complain, ~~existing~~ in the state of New-York; is that the state must protect its own institutions. We say, let it protect them justly, and by honourable means. But against what is it going to protect them in the present case, and by the method adopted, unless it be against rivalry! against learning! against talent! against literary and scientific competition! The state is made to say, that no respect shall be paid to any diploma but theirs, unless forsooth it be from some other state or country, in order that persons wanting diplomas may be constrained to purchase them of those who have the monopoly of the article.

The state gave the proper protection to its own colleges when it endowed them. Is not this enough, without encroaching on our rights for their further emolument? We do not complain of their endowments, but humbly ask that the hand of authority may not shut our mouths, lest their voice should not be heard.

With this frank exposition of our views, we submit a few principles of Medical Education, and admission to the practice of Physic and Surgery in this state, which, we believe, would serve the interests of the public, and sustain the character of our heretofore honoured and honourable profession.

We propose, therefore, for the basis of a system, to be matured by the wisdom of the legislature, the following plan, viz:

1st. That any authorized practitioner of Physic and Surgery may become a teacher of those Sciences, by opening a school and giving public lectures, with the aid of such materials L apparatus as are usual for the course of instruction he delivers; and that his certificate shall be received from candidates for Medical licence.

2d. That candidates for the degree of M. D., which shall be a licence to teach and practise Medicine and Surgery, must produce proper certificates of being twenty-one years of age; of good moral character; of having studied the Science for four years, after the age of seventeen years, under the direction of an authorized practitioner; and also within, the said four years of having attended—

Two full courses of Anatomy and Physiology, of daily lectures, of at least four months duration.

Two full courses of the principles and practice of Surgery, of daily lectures, of at least four months duration.

Two full courses of Therapeutics and Materia Medica, of daily lectures, and four months duration.

Two full courses of the Institutes and Practice of Physic, of daily lectures, and four months duration.

Two full courses of Obstetrics and the Diseases of Women and Children, of four lectures weekly, and at least four months duration.

Two full courses of Chemistry and Pharmacy, of daily lectures, of four months duration.

And also of having attended one season on the practice of an Hospital.

3d. That a Board of Examiners be constituted of ten Members, eminent as Practitioners of Medicine and Surgery, six of whom to be a quorum; who are to examine all candidates, and from whom alone is to be derived a valid licence for practising Medicine and Surgery in this state. This board to be appointed on the nomination of the Governor, and the approval of the Senate, to hold their office during good behaviour, and not to be teachers of Medical science while in office.

They may confer the degree of Bachelor of Medicine on such candidates as have attended *one* full course of lectures on all the branches named, and of the duration required, instead of two full courses, which shall be necessary for the degree of Doctor of Medicine. Either of these degrees shall be a licence to practise.

They shall assemble twice in each year, in May and September, for the purpose of examining candidates for the Medical profession; and shall receive a fee of ——— dollars from every person examined, whether approved or not; which is to be in full compensation for their services as examiners.

In conclusion, believing the interests of the community,



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